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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL LEON WATTS,

Defendant and Appellant.

B286256

(Los Angeles County
Super. Ct. No. TA142688)

APPEAL from a postjudgment order of the Superior Court of Los Angeles County, Patrick Connolly, Judge. Affirmed.

Michael Leon Watts, in pro. per.; and Renee Rich, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Michael Leon Watts appeals from the denial of his motion to withdraw his plea. We affirm the postjudgment order.

BACKGROUND

I. Factual background¹

Sometime between November 4 and 6, 2016, Watts burned his girlfriend, Elizabeth L., on the chest with a cigarette as she lay sleeping in bed beside him.

On November 23, 2016, after Elizabeth L. ended the relationship, Watts threatened to kill Elizabeth L. and her family, broke the windshields on her car and her daughter's car, broke Elizabeth L.'s bedroom windows, and smeared feces on her front door.

On March 6, 2017, Watts threatened to stab Elizabeth L., forcing her to drive to a restaurant parking lot where he strangled her with his belt, further threatening to burn her alive, telling her, "You're going to die tonight."

After his arrest, Watts called Elizabeth L. 28 times from the county jail including on March 14, 2017, when he told her to either not testify in court or alternatively to change her statement.

II. Procedural background

On April 5, 2017, Watts was charged in a felony information with kidnapping (Pen. Code,² § 207, subd. (a)), two counts of injuring a cohabitant (§ 273.5, subd. (a)) with one involving the personal use of a deadly weapon (§ 12022,

¹ As Watts was convicted on his plea prior to trial, the facts are taken from the preliminary hearing.

² All further statutory references are to the Penal Code.

subd. (b)(1)), two counts of criminal threats (§ 422, subd. (a)), vandalism (§ 594, subd. (a)), and dissuading a witness (§ 136.1, subd. (b)(2)).

On June 5, 2017, Watts plead open to the court in exchange for a sentence of seven years in prison.

On July 12, 2017, Watts petitioned for a writ of habeas corpus based on the allegations that he received ineffective assistance of counsel and that the prosecution failed to provide him with exculpatory evidence.

On August 9, 2017, Watts filed an amendment to his petition for writ of habeas corpus asserting that he was innocent of the charges against him.

On August 18, 2017, Watts filed a virtually identical petition for writ of habeas corpus, attaching purported new evidence in the form of a declaration by Elizabeth L. indicating that Watts merely accepted her offer for a ride but did not kidnap her.

On October 3, 2017, the trial court heard and denied Watts's petition, deeming it to be a motion to withdraw his plea.

On October 10, 2017, Watts timely filed a notice of appeal, though he did not obtain a signed certificate of probable cause.

On October 15, 2018, court-appointed counsel for Watts filed an opening brief and requested the court to conduct an independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

On October 18, 2018, Watts filed a supplemental brief reiterating his position that he received ineffective assistance of counsel at the time of his plea.

On October 26, 2018, Watts filed a second supplemental brief pointing out specific portions of the record in support of his claim of ineffective assistance of trial counsel.

On November 1, 2018, Watts filed a third supplemental brief citing additional portions of the record in support of his claim of actual innocence.

DISCUSSION

We have conducted an independent review of the record and are satisfied Watt’s attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende, supra*, 25 Cal.3d at p. 441.) Watts’s claims of ineffective assistance of trial counsel and actual innocence are unavailing for the following reasons.

First, he did not obtain a certificate of probable cause. A certificate of probable cause is required “when a defendant claims that a plea was induced by misrepresentations of a fundamental nature” (*People v. Panizzon* (1996) 13 Cal.4th 68, 76), or that he or she received ineffective assistance of counsel prior to the plea (*People v. Stubbs* (1998) 61 Cal.App.4th 243, 244–245). Furthermore, there is nothing in the record to demonstrate that his trial attorney’s performance at any stage of the proceedings fell “outside the wide range of professional competent assistance.” (*Strickland v. Washington* (1984) 466 U.S. 668, 690.)

Second, Watts’s claim of actual innocence is forfeited as he plead no contest to each of the charges and allegations against him. “Issues which merely go to the guilt or innocence of a defendant are removed from consideration by entry of a guilty plea. [Citation.] . . . [A] defendant cannot admit the sufficiency of the evidence by pleading guilty and then question the evidence by

an appeal under section 1237.5.” (*People v. O’Daniel* (1987) 194 Cal.App.3d 715, 718.)

DISPOSITION

The postjudgment order is affirmed.
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DHANIDINA, J.

We concur:

LAVIN, Acting P. J.

EGERTON, J.